



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 28 2018

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Curt Johnson
President
Curt's Truck & Diesel Service, Inc.
370 24th Avenue NW
Owatonna, Minnesota 55060

Re: Finding of Violation for Clean Air Act Violations

Dear Mr. Johnson:

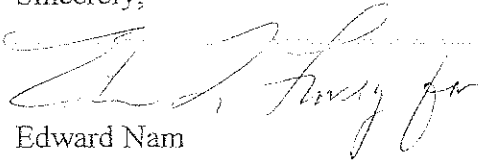
The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Curt's Truck & Diesel Service, Inc. (Curt's or you) for violating Sections 203(a)(3)(A) and (B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(3)(A) and (B). As summarized in the attached FOV, EPA determined that Curt's removed and/or rendered inoperative devices or elements of design installed on or in motor vehicles or motor vehicle engines, and has installed parts or components for motor vehicle engines that bypass, defeat, or render inoperative elements of design of those engines that were installed by the original equipment manufacturer in order to comply with CAA emission standards.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us any information responsive to the FOV prior to the conference date. We have also enclosed an information sheet titled: "*U.S. EPA Small Business Resources*" which may be helpful if you qualify as a small business.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Patrick Miller. You may call him at (312) 886-4044 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "E. Nam", written over a horizontal dotted line.

Edward Nam
Director
Air and Radiation Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Curt's Truck & Diesel Service, Inc.)	FINDING OF VIOLATION
Owatonna, Minnesota)	
)	EPA-5-18-MN-02
Proceedings Pursuant to)	
the Clean Air Act)	
42 U.S.C. §§ 7521 - 7554)	
)	

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation to Curt's Truck & Diesel Service, Inc. ("Curt's" or "you") for violating Sections 203(a)(3)(A) and 203(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(3)(A) and (a)(3)(B).

Statutory and Regulatory Background

1. Title II of the CAA, 42 U.S.C. §§ 7521–7554, was enacted to reduce air pollution from mobile sources. In enacting the CAA, Congress found, in part, that "the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare." CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2).
2. Section 216(2) of the CAA defines "motor vehicle" as "any self-propelled vehicle designed for transporting persons or property on a street or highway." *See also* 40 C.F.R. § 85.1703 (further defining "motor vehicle"). These definitions are based on vehicle attributes (e.g., ability to travel over 25 miles per hour, lack of features that render street use unsafe) and make no exemption for vehicles based on their use (e.g., claim that a vehicle is used solely for competition).
3. EPA promulgated emission standards for particulate matter (PM), nitrogen oxides (NO_x), and other pollutants emitted by motor vehicles and motor vehicle engines, including Heavy Duty Diesel Engine (HDDE) trucks, under Section 202 of the CAA, 42 U.S.C. § 7521. *See generally* 40 C.F.R. Part 86. HDDE emission standards "reflect the greatest degree of emission reduction achievable through the application of [available] technology." CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i).
4. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity. EPA issues certificates of conformity to vehicle and engine manufacturers under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles and motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions. The certificate of conformity will

include, among other things, a description of the HDDEs, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.

5. To meet the emission standards in 40 C.F.R. Part 86, HDDE manufacturers employ many devices and elements of design. "Element of design" means "any control system (i.e., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine." 40 C.F.R. § 86.094-2.
6. One element of design that HDDE manufacturers employ is retarded fuel injection timing as a primary emission control strategy for emissions of oxides of nitrogen (NO_x). Common emission control devices used by HDDE manufacturers to meet emission standards include diesel particulate filters (DPFs), exhaust gas recirculation (EGR) systems, selective catalytic reduction (SCR) systems, and/or diesel oxidation catalysts (DOCs). Additionally, modern HDDEs are equipped with electronic control modules (ECMs), which continuously monitor engine and other operating parameters and control the emission control devices.
7. EPA promulgated regulations for motor vehicles manufactured after 2007 that require HDDE trucks to have onboard diagnostic systems to detect various emission control device parameters and vehicle operations. *See* Section 202(m) of the CAA, 42 U.S.C. § 7521(m) and 40 C.F.R. § 86.010-18.
8. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), prohibits "any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser."
9. Section 203(a)(3)(B), of the CAA, 42 U.S.C. § 7522(a)(3)(B), prohibits "any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use."

Background

10. Curt's owns and operates a HDDE service and repair facility located in Owatonna, Minnesota ("Facility") that sells parts or components intended for use with HDDEs and performs, among other things, performance modifications to HDDEs.
11. Curt's is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

12. On December 5, 2017, EPA representatives conducted an inspection of the Curt's Facility to evaluate the company's compliance with Title II of the CAA.
13. On May 15, 2018, EPA issued to Curt's a request for information under Section 208 of the CAA, 42 U.S.C. § 7542, requesting documents related to services and/or parts or components manufactured, sold, or installed by Curt's on HDDEs.
14. On July 16, 2018, Curt's provided to EPA invoices and documents related to its purchases, sales, and work that impacted emission control devices and elements of design on HDDEs certified to meet applicable motor vehicle and motor vehicle engine emission standards under Title II of the CAA.
15. Curt's provided at least 141 work records that showed it sold and/or installed tuners or tunes consisting of software and/or devices that change, affect, modify, bypass, render inoperative, or allow for the deletion of DOC, DPF, EGR, and/or SCR systems, and/or OBD codes, sensors, signals, or records related to these systems; and/or alter ECM fuel or ignition timing maps on HDDEs ("Defeat Tuners or Tunes"). These work records range from January 7, 2016 through May 9, 2018. The invoices for this work are summarized in Attachment A. The Defeat Tuners or Tunes sold and/or installed by Curt's were manufactured and/or provided by Diesel Tune-Ups of RI, LLC; Performance Diesel, Inc.; Full Tilt Performance; Diesel Spec, Inc.; and West Fork Services, LLC.
16. Curt's provided at least 138 work records that showed it sold and/or installed "delete kits" containing parts and/or exhaust systems that remove and/or bypass DOC, DPF, EGR, and/or SCR systems on HDDEs. These work records range from January 7, 2016 through May 9, 2018. The invoices for this work are summarized in Attachment A.

Violations

17. Based on the information described above, Curt's knowingly removed and/or rendered inoperative devices or elements of design installed in or on EPA-certified HDDEs that were installed by the original equipment manufacturer in compliance with CAA emissions standards. Specifically, Curt's installed or modified software on the HDDE's ECM to allow the HDDEs to operate without a DOC, DPF, EGR, and/or SCR, and installed hardware that removed and/or bypassed DOC, DPF, EGR, and/or SCR systems. Therefore, Curt's is in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A).
18. Based on the information described above, Curt's sold, offered for sale, and/or installed parts and components used on EPA-certified HDDEs. A principal effect of these parts and components was to bypass, defeat, or render inoperative elements of the HDDEs' design that control emissions of regulated air pollutants. Specifically, the parts and components bypassed, removed and/or rendered inoperative DOCs, DPFs, EGRs, and/or SCRs installed on HDDEs. Curt's knew or should have known that these parts or components were offered for sale or installed for such use or put to such use. Therefore, Curt's is in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

Environmental Impact of Violations

19. These violations may result in excess emissions of PM, NO_x, hydrocarbons, and other air pollutants. PM, especially fine particulates containing microscopic solids or liquid droplets, can get deep into the lungs and cause serious health problems, including decreased lung function; chronic bronchitis; and aggravated asthma. Additionally, current scientific evidence links short-term NO_x exposures, ranging from 30 minutes to 24 hours, with adverse respiratory effects including airway inflammation in healthy people and increased respiratory symptoms in people with asthma.

Enforcement Authority

20. EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Any person who violates Section 203(a)(3)(A) and (a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (a)(3)(B), is subject to an injunction under Section 204 of the CAA, 42 U.S.C. § 7523, and a civil penalty of up to \$4,619 for each violation under Section 205(a) of the CAA, 42 U.S.C. § 7524(a), and 40 C.F.R. § 19.4.

Date

7/18/18

Edward Nam

Director

Air and Radiation Division

Attachment A

Date	Invoice No.	Was a Delete Kit(s) Sold/Installed?	Was a Defeat Tuner or Tune(s) Sold/Installed?
1/7/2016	91663	Yes	Yes
1/27/2016	91809	Yes	Yes
2/4/2016	91851	Yes	Yes
2/19/2016	92002	Yes	Yes
2/29/2016	92020	Yes	Yes
3/16/2016	92201	Yes	Yes
3/17/2016	92223	Yes	Yes
3/18/2016	92225	Yes	Yes
3/28/2016	92297	Yes	Yes
4/14/2016	92410	Yes	Yes
4/14/2016	92396	Yes	Yes
4/14/2016	92277	Yes	Yes
4/27/2016	92522	Yes	Yes
4/28/2016	92546	Yes	Yes
4/28/2016	92558	No	Yes
4/28/2016	92217	Yes	Yes
4/29/2016	92403	Yes	Yes
5/6/2016	92607	Yes	Yes
5/6/2016	92619	Yes	Yes
5/11/2016	92640	Yes	Yes
5/11/2016	92656	Yes	Yes
5/13/2016	92572	Yes	Yes
5/19/2016	92723	Yes	Yes
5/19/2016	92727	Yes	Yes
5/20/2016	92672S	Yes	Yes
5/26/2016	92782	Yes	Yes
6/1/2016	92809	Yes	Yes
6/9/2016	92887	Yes	Yes
6/10/2016	92825	Yes	Yes
6/10/2016	92897	Yes	Yes
7/6/2016	93085	Yes	Yes
7/6/2016	93069	Yes	Yes
7/6/2016	93066	Yes	Yes
7/28/2016	93278	Yes	Yes
7/29/2016	93266	Yes	Yes

Date	Invoice No.	Was a Delete Kit(s) Sold/Installed?	Was a Defeat Tuner or Tune(s) Sold/Installed?
8/1/2016	93310	Yes	Yes
8/1/2016	93155	Yes	Yes
8/2/2016	93304	Yes	Yes
8/3/2016	93317	Yes	Yes
8/4/2016	93328	Yes	Yes
8/23/2016	93422	Yes	Yes
8/23/2016	93455	Yes	Yes
8/23/2016	93487	Yes	Yes
8/25/2016	93497	Yes	Yes
8/30/2016	93544	Yes	Yes
9/2/2016	93556	Yes	Yes
9/6/2016	93563	Yes	Yes
9/8/2016	93588	Yes	Yes
9/9/2016	93609	Yes	Yes
9/23/2016	93688	Yes	Yes
10/19/2016	93940	Yes	Yes
11/8/2016	94108	Yes	Yes
11/11/2016	94136	No	Yes
11/28/2016	94204	Yes	Yes
11/28/2016	94223	Yes	Yes
12/28/2016	94469	Yes	Yes
12/29/2016	94068	Yes	Yes
1/4/2017	94528	Yes	Yes
1/13/2017	94575	Yes	Yes
1/16/2017	94624	Yes	Yes
1/20/2017	94673	Yes	Yes
2/24/2017	94815	Yes	Yes
3/2/2017	94995	Yes	Yes
3/9/2017	95031	Yes	Yes
3/13/2017	95005	Yes	Yes
3/21/2017	95016	Yes	Yes
3/31/2017	94973	Yes	Yes
3/31/2017	95147	Yes	Yes
3/31/2017	95187	Yes	Yes
4/10/2017	95258	Yes	Yes
4/15/2017	95240	Yes	Yes
4/17/2017	95321	Yes	Yes

Date	Invoice No.	Was a Delete Kit(s) Sold/Installed?	Was a Defeat Tuner or Tune(s) Sold/Installed?
4/21/2017	95302	Yes	Yes
4/25/2017	95273	Yes	Yes
4/26/2017	95373	Yes	Yes
4/26/2017	95377	Yes	Yes
4/29/2017	95386	Yes	Yes
5/5/2017	95448	Yes	Yes
5/5/2017	95454	Yes	Yes
5/15/2017	95472	Yes	Yes
5/15/2017	95404	Yes	Yes
5/15/2017	95431	Yes	Yes
5/20/2017	95558	Yes	Yes
5/31/2017	95158	Yes	Yes
6/1/2017	95623	Yes	Yes
6/5/2017	95635	Yes	Yes
6/21/2017	95781	Yes	Yes
6/27/2017	95797	Yes	Yes
6/28/2017	95826	Yes	Yes
6/29/2017	95576	Yes	Yes
6/30/2017	95849	Yes	Yes
7/14/2017	95930	Yes	Yes
7/18/2017	95903	Yes	Yes
7/18/2017	95906	Yes	Yes
7/24/2017	95972	Yes	Yes
8/1/2017	96035	Yes	Yes
8/15/2017	96140	Yes	Yes
8/30/2017	96269	Yes	Yes
8/31/2017	95998	Yes	Yes
9/27/2017	96458	Yes	Yes
9/28/2017	96373	Yes	Yes
9/29/2017	96472	Yes	Yes
9/29/2017	96482	Yes	Yes
9/29/2017	96484	Yes	Yes
10/3/2017	96502	Yes	Yes
11/9/2017	96489	Yes	Yes
11/15/2017	96821	Yes	Yes
11/17/2017	96696	Yes	Yes
11/21/2017	96836	Yes	Yes

Date	Invoice No.	Was a Delete Kit(s) Sold/Installed?	Was a Defeat Tuner or Tune(s) Sold/Installed?
11/22/2017	96792	Yes	Yes
12/6/2017	96931	Yes	Yes
12/6/2017	96932	Yes	Yes
12/13/2017	97020	Yes	Yes
12/19/2017	97062	Yes	Yes
12/20/2017	96967	Yes	Yes
12/22/2017	97044	Yes	Yes
12/29/2017	95668	Yes	Yes
1/19/2018	97307	Yes	Yes
1/22/2018	97188	Yes	Yes
1/23/2018	97322	Yes	Yes
1/29/2018	97238	Yes	Yes
1/31/2018	97374	Yes	Yes
2/6/2018	97448	Yes	Yes
2/13/2018	97515	Yes	Yes
2/26/2018	47595	Yes	Yes
3/6/2018	97653	Yes	Yes
3/8/2018	97503	Yes	Yes
3/8/2018	97552	Yes	Yes
3/8/2018	97571	Yes	Yes
3/20/2018	97762	Yes	Yes
3/26/2018	97759S	Yes	Yes
3/27/2018	97773	Yes	Yes
3/28/2018	97846	Yes	Yes
4/5/2018	97804	Yes	Yes
4/6/2018	97883	No	Yes
4/12/2018	97945	Yes	Yes
4/17/2018	97994	Yes	Yes
4/17/2018	98000	Yes	Yes
4/30/2018	98056	Yes	Yes
5/8/2018	98140	Yes	Yes
5/9/2018	98163	Yes	Yes

CERTIFICATE OF MAILING

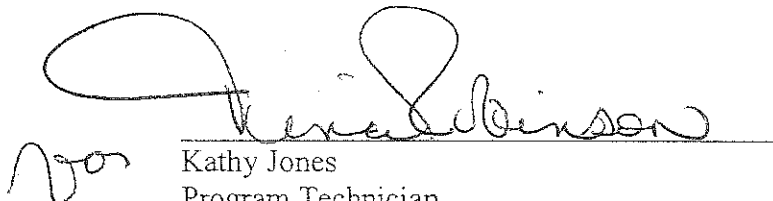
I certify that I sent a Finding of Violation, No. EPA-5-18-MN-02, by Certified Mail,
Return Receipt Requested, to:

Curt Johnson, President
Curt's Truck & Diesel Service, Inc.
370 24th Avenue NW
Owatonna, MN 55060

I also certify that I sent copies of the Finding of Violation by email to:

Sarah Kilgriff, Manager
Land and Air Compliance Section
Industrial Division
Minnesota Pollution Control Agency
Sarah.Kilgriff@state.mn.us

On the 28th day of September 2018.


Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70170530000062887545

